

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Unlicensed Activity of:

No. 09F-BD028-SBD

3 **DRIGGS TITLE AGENCY, INC. AND**
4 **ADAM DRIGGS, PRESIDENT**
1951 W. Camelback Road, Suite 101
Phoenix, AZ 85015

**ORDER TO CEASE AND DESIST;
NOTICE OF OPPORTUNITY FOR
HEARING; CONSENT TO ENTRY OF
ORDER**

5 Respondents.

6
7 The Superintendent of Financial Institutions for the State of Arizona (the "Superintendent"),
8 makes the following Findings of Fact and Conclusions of Law and enters the following Order
9 pursuant to Arizona Revised Statutes ("A.R.S.") § 6-137.

10 Pursuant to Titles 6 and 41 of the Arizona Revised Statutes and Title 20, Chapter 4 of the
11 Arizona Administrative Code ("A.A.C."), Respondents are hereby notified that they are entitled to a
12 hearing to contest the allegations set forth in this Order. The Request for Hearing shall be filed with
13 the Arizona Department of Financial Institutions (the "Department") pursuant to A.R.S. § 6-137(D)
14 within **thirty (30) days** of service of this Order and shall identify with specificity the action or order
15 for which review is sought in accordance with A.R.S. § 41-1092.03(B).

16 Pursuant to A.R.S. §§ 41-1092.01(D) and 41-1092.03(B), any person may appear on his or
17 her own behalf or by counsel. If Respondents are represented by counsel, the information required
18 by A.R.S. § 41-1092.03(B) shall be included in the Request for Hearing. Upon the filing of a
19 Request for Hearing, the Department shall issue a Notice of Hearing scheduling the matter for
20 hearing in accordance with A.R.S. § 41-1092.05. **Persons with disabilities may request**
21 **reasonable accommodations such as interpreters, alternative formats, or assistance with**
22 **physical accessibility.** Requests for special accommodations must be made as early as possible to
23 allow time to arrange the accommodations. If accommodations are required, call the Office of
24 Administrative Hearings at (602) 542-9826.

25 Respondents have the right to request an Informal Settlement Conference, pursuant to A.R.S.
26 § 41-1092.06, by filing a written request no later than **twenty (20) days** before the scheduled

1 hearing. The conference will be held within **fifteen (15) days** after receipt of your request. If an
2 Informal Settlement Conference is requested, a person with the authority to act on behalf of the
3 Department will be present (the "Department Representative"). Please note that in requesting an
4 Informal Settlement Conference, Respondents waive any right to object to the participation of the
5 Department Representative in the final administrative decision of this matter, if it is not settled. In
6 addition, any written or oral statement made by Respondents at such informal settlement conference,
7 including written documentation created or expressed solely for purposes of settlement negotiations,
8 are inadmissible in any subsequent administrative hearing. (See A.R.S. § 41-1092.06 for rules
9 regarding informal settlement conferences.) Conversely, any written or oral statement made by
10 Respondents outside an Informal Settlement Conference is not barred from being admitted by the
11 Department in any subsequent hearing.

12 If Respondents do not request a hearing, this Order shall become final. If Respondents
13 request a hearing, the purpose of the hearing shall be to determine if grounds exist for: (1) the
14 issuance of an order pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the
15 violative conduct and to take the appropriate affirmative actions, within a reasonable period of time
16 prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts,
17 practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-
18 132; (3) the suspension or revocation of Respondents' license pursuant to A.R.S. § 6-817; and (4) an
19 order or any other remedy necessary or proper for the enforcement of statutes and rules regulating
20 escrow agents pursuant to A.R.S. §§ 6-123 and 6-131.

21 **FINDINGS OF FACT**

22 1. Respondent Driggs Title Agency, Inc. ("Driggs") is an Arizona corporation that is not
23 and was not, at any time material herein, authorized to transact business in Arizona as an escrow
24 agent within the meaning of A.R.S. §§ 6-801, *et seq.*

25 2. Respondent Adam Driggs ("Mr. Driggs") is the President of Driggs, and is not and
26 was not at any time material herein authorized to transact business in Arizona as an escrow agent

1 within the meaning of A.R.S. §§ 6-801 *et seq.*

2 3. Driggs and Mr. Driggs are not exempt from licensure as an escrow agent within the
3 meaning of A.R.S. § 6-811(A).

4 4. On or around May 8, 2008, the Department examined licensed escrow agent Sunset
5 One Escrow Inc.'s ("Sunset") books and records. The examination revealed the following unlicensed
6 activity:

- 7 a. Escrow funds are frequently deposited into a Driggs bank account and then
8 transferred into the Sunset bank account;
- 9 b. Internal escrow documents are frequently prepared using the Driggs name;
10 and
- 11 c. Escrow property is sent to the attention of Driggs; and

12 5. On or around July 25, 2008, the Department examined additional Sunset escrow files.
13 The examination revealed the following unlicensed activity:

- 14 a. Individuals working by an Agreement with Driggs are performing escrow
15 functions, including but not limited to; preparation of HUD-1 Settlement
16 statements, receipt of loan documents, continual contact with lending
17 personnel and other parties to the transaction throughout the escrow
18 transaction, preparation of internal escrow documents and the
19 receipt/disbursement of escrow funds;
- 20 b. Escrow property in the form of loan documents and escrow funds are being
21 handled by individuals working by an Agreement with Driggs;
- 22 c. Multiple documents list the Settlement Agent as Driggs; and
- 23 d. Multiple documents list parties working by an Agreement with Driggs as the
24 Escrow Officer.

1 **CONCLUSIONS OF LAW**

2 1. Pursuant to A.R.S. §§ 6-801, *et seq.*, the Superintendent has the authority and duty to
3 regulate all persons engaged in the escrow agent business and with the enforcement of statutes, rules,
4 and regulations relating to escrow agents.

5 2. By the conduct set forth above, Driggs and Mr. Driggs violated A.R.S. § 6-813(A) by
6 engaging in the escrow agent business or acting in the capacity of an escrow agent in Arizona
7 without first obtaining a license.

8 3. Driggs and Mr. Driggs are not exempt from licensure as an escrow agent within the
9 meaning of A.R.S. § 6-811(A).

10 4. The violations of applicable laws, set forth above, constitute grounds for: (1) the
11 issuance of an order pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the
12 violative conduct and to take the appropriate affirmative actions, within a reasonable period of time
13 prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts,
14 practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S.
15 § 6-132; and (3) an order or any other remedy necessary or proper for the enforcement of statutes
16 and rules regulating escrow agents pursuant to A.R.S. §§ 6-123 and 6-131.

17 **ORDER**

18 1. Driggs and Mr. Driggs shall immediately stop the violations set forth in the Findings
19 of Fact and Conclusions of Law. Driggs and Mr. Driggs shall immediately stop all escrow agent
20 activity in Arizona until such time as Driggs and Mr. Driggs have obtained an escrow agent license
21 from the Superintendent as prescribed by A.R.S. § 6-814.


22 2. Driggs and Mr. Driggs shall immediately pay to the Department a civil money
23 penalty in the amount of twenty-five thousand dollars (\$25,000.00). Driggs and Mr. Driggs are
24 jointly and severally liable for payment of the civil money penalty.

25 3. The provisions of this Order shall be binding upon Respondents, their employees,
26 agents, and other persons participating in the conduct of the affairs of Respondents.

1 4. This Order shall become effective upon service, and shall remain effective and
2 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated,
3 or set aside.

4 SO ORDERED this 7th day of October, 2008.

5 Felecia A. Rotellini
6 Superintendent of Financial Institutions

7 By 
8 Robert D. Charlton
9 Assistant Superintendent of Financial Institutions

10 **CONSENT TO ENTRY OF ORDER**

11 1. Respondents acknowledge that they have been served with a copy of the foregoing
12 Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, have read the
13 same, are aware of their right to an administrative hearing in this matter, and have waived the same.

14 2. Respondents admit the jurisdiction of the Superintendent and consent to the entry of
15 the foregoing Findings of Fact, Conclusions of Law, and Order.

16 3. Respondents state that no promise of any kind or nature has been made to induce
17 them to consent to the entry of this Order, and that they have done so voluntarily.

18 4. Respondents agree to cease from engaging in the violative conduct set forth above in
19 the Findings of Fact and Conclusions of Law.

20 5. Respondents acknowledge that the acceptance of this Agreement by the
21 Superintendent is solely to settle this matter and does not preclude this Department, any other agency
22 or officer of this state or subdivision thereof from instituting other proceedings as may be
23 appropriate now or in the future.

24 6. Adam Driggs, on behalf of Driggs Title Agency, Inc., and himself, represents that he
25 is the President, and that, as such, has been authorized by Driggs Title Agency, Inc., to consent to the
26 entry of this Order on its behalf.

7. Respondents waive all rights to seek judicial review or otherwise to challenge or contest the validity of this Cease and Desist Order.

DATED this _____ day of _____, 2008.

By Adam Driggs, President
Driggs Title Agency, Inc.

ORIGINAL of the foregoing filed this 7th day of October, 2008, in the office of:

Felecia A. Rotellini
Superintendent of Financial Institutions
Arizona Department of Financial Institutions
ATTN: Susan L. Longo
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

COPY mailed/delivered same date to:

Craig A. Raby, Assistant Attorney General
Office of the Attorney General
1275 West Washington
Phoenix, AZ 85007

Richard Fergus, Division Manager
Dianna Cox, Senior Examiner
Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

AND COPY MAILED SAME DATE by
Certified Mail, Return Receipt Requested, to:

Driggs Title Agency, Inc.
Adam Driggs, President
1951 W. Camelback Road, Suite 101
Phoenix, AZ 85015
Respondents

Adam Driggs, Statutory Agent for:
Driggs Title Agency, Inc.
6855 E. Wildcat Drive
Scottsdale, AZ 85262

PHX-#299042; PHX-AGN-2008-0549